

LEGAL SERVICES OF NORTHERN CALIFORNIA

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UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

BETTY RIOS, LUCILLE MENDEZ,  
PALMER OVERSTREET,  
SACRAMENTO HOMELESS  
ORGANIZING COMMITTEE

Plaintiffs,

v.

COUNTY OF SACRAMENTO; NAV  
GILL, in his official capacity as  
Sacramento County Executive;  
COUNTY OF SACRAMENTO, as  
Successor Agency for the Redevelopment  
Agency of the County of Sacramento;  
SACRAMENTO COUNTY SHERIFF'S  
DEPARTMENT; SCOTT JONES, in his  
official capacity as Sacramento County  
Sheriff; SACRAMENTO HOUSING  
AND REDEVELOPMENT AGENCY;  
LA SHELLE DOZIER, in her official  
capacity as Executive Director of the  
Sacramento Housing and  
Redevelopment Agency; DEPUTY LEE,  
individually and in his official capacity  
as Deputy Sheriff for the County of  
Sacramento.

Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
DAMAGES**

1                                   **I.    PRELIMINARY STATEMENT**

2           1.       On any given night, more than 3,000 people are homeless in  
3 Sacramento County. These 3,000 individuals must compete against each other for  
4 one of only 762 shelter beds in the County. County of Sacramento, *Homeless Plan*,  
5 Nov. 30, 2018 at 19. Likewise, Sacramento has a severe shortage of housing that is  
6 available to its lowest income residents—there is a gap of over 57,000 rental units  
7 for such residents in the region. *The Gap: A Shortage of Affordable Homes*, Nat’l  
8 Low Income Housing Coalition, at Appendix B (March 2019),  
9 [https://reports.nlihc.org/sites/default/files/gap/Gap-Report\\_2019.pdf](https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2019.pdf). In express  
10 recognition that these residents cannot obtain shelter or permanent housing,  
11 Defendant County of Sacramento declared a Shelter Crisis on October 16, 2018 in  
12 an effort to obtain additional funding to address the drastic need for additional  
13 shelter beds.

14          2.       Despite acknowledging that unsheltered people have nowhere to be  
15 during the day and night, Defendants County of Sacramento and Sacramento  
16 County Sheriff’s Department persist in criminalizing those who must sleep and rest  
17 on public land in violation of *Martin v. City of Boise*, 902 F.2d 1031 (9th Cir. 2018).

18          3.       To that end, on April 28, 2019, Defendants suddenly and unexpectedly  
19 served a 72 Hour Notice to Vacate (the “Notice”) that informed residents who lived  
20 on two adjacent parcels of land located on Stockton Boulevard (“Stockton  
21 Encampment”) that they have to leave or face criminal prosecution. Specifically, the  
22 Notice stated that “Every person who camps/ lodges or stores property on public  
23 lands without permission of the owner is committing a misdemeanor violation.”

24          4.       The Stockton Encampment is a publicly owned lot that has been  
25 vacant for almost a decade after Defendant Sacramento Housing and  
26 Redevelopment Agency (“SHRA”) purchased it. The residential hotel and mobile  
27 home park that were on the site when SHRA purchased it were demolished for the  
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1 purpose of redevelopment that has yet to materialize. At the time of the Notice,  
2 approximately 100 people were residing at the encampment, the lot had dumpster  
3 and trash services along with portable restrooms provided by the County, and a  
4 community of residents unable to access shelter elsewhere.

5         5. Three days after issuing the Notice, Defendants deployed a fleet of  
6 Sheriff's Deputies, some of whom were outfitted with batons and riot gear, and at  
7 least 15 Sheriff vehicles, to remove Plaintiffs from the Stockton Encampment.  
8 Defendants also deployed a helicopter overhead blaring orders to the residents to  
9 disperse or face arrest. During this raid, Defendant County of Sacramento, joined  
10 and assisted by the remaining Defendants, illegally displaced and destroyed the  
11 personal property of approximately 100 residents. As a result, the residents were  
12 forced to frantically take the items they could carry, leave critical items behind, and  
13 flee to the surrounding sidewalk and nearby streets. Notably, Defendants did not  
14 deploy social service agencies, mental health professionals, or shelter providers.

15         6. Defendants' unlawful actions deprived individual Plaintiffs of personal  
16 belongings that are critical to their survival, such as clothing, medication, tents and  
17 blankets, as well as irreplaceable personal possessions, such as family photographs,  
18 records, and documents. Defendants' actions also criminalized individual Plaintiffs'  
19 presence in a public space and traumatically displaced them without a relocation  
20 plan, shelter, services or support for the residents. The raid left individual Plaintiffs  
21 even more destitute, defenseless, and vulnerable.

22         7. Defendants have provided no lawful justification to support their  
23 threats to arrest people for involuntarily living in public space, nor the seizure and  
24 destruction of their life-sustaining property and traumatic forced closure of a lot  
25 abandoned by all but a community of Sacramento residents living without shelter.  
26 Defendants' actions during the raid were unnecessary and unconstitutional.  
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1                                   **II.     JURISDICTION AND VENUE**

2           8.     This is a civil rights action arising under 42 U.S.C. § 1983 and the  
3 Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.  
4 This Court has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction)  
5 and § 134 (civil rights jurisdiction).

6           9.     Venue in the Eastern District of California is proper under 28 U.S.C. §  
7 1391(b)(1), because the County of Sacramento is located in this district, and under §  
8 1391(b)(2), because a substantial part of the events giving rise to the claims  
9 occurred in this district.

10                               **III.     FACTUAL ALLEGATIONS**

11                               **THE STOCKTON ENCAMPMENT**

12          10.    The Stockton Encampment consists of two undeveloped parcels located  
13 at 5700 Stockton Boulevard, Sacramento, California and 5716 Stockton Boulevard,  
14 Sacramento, California.

15          11.    The Stockton Encampment was formerly the San Juan Motel and Hood  
16 Mobilehome Park. In 2008, SHRA purchased and/or received the parcels with plans  
17 to develop affordable housing. To this end, the San Juan Motel and Mobilehome  
18 Park were demolished by mid-2010.

19          12.    The land was never developed and remained vacant after the  
20 demolition. Individual Plaintiffs and other similarly situated homeless individuals  
21 stayed or moved onto the property because they had nowhere else to go. Homeless  
22 community members have been residing on the property for the past nine years. In  
23 January 2019, SHRA began installation of a wrought-iron fence around the  
24 property that is now gated and locked.

25                               **THE NOTICE**

26          13.    On April 28, 2019, Defendant Sacramento Sheriff's Department posted  
27 copies of the Notice throughout the Stockton Encampment. The Notice states that  
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1 “Every person who camps/ lodges or stores property on public lands without  
2 permission of the owner is committing a misdemeanor violation.” Additionally, the  
3 Notice further states that a “Site Clean-up” would occur on May 1, 2019 at 8 AM.

4 14. The Notice failed to provide meaningful information on how to reclaim  
5 residents’ property if removed by Defendants. Under the “Instructions for  
6 Retrieving Your Property” section, the Notice instructs residents to call “(916)  
7 \_\_\_\_\_” to inquire about their property. The Notice further states three  
8 possible storage locations for any collected property, but did not indicate which of  
9 these, if any, would be used.

10 15. The Notice (1) does not provide meaningful and effective notice to those  
11 who would be affected by Defendants’ action; (2) fails to provide essential  
12 information on how to retrieve property; (3) does not inform recipients that personal  
13 property would be destroyed summarily; and (4) criminalizes sleeping/camping on  
14 public property in the absence of available shelter beds despite federal court rulings  
15 barring such practices.

### 16 THE RAID

17 16. Defendants raided the Stockton Encampment on May 1, 2019. At  
18 around 8:00 A.M., the initial wave of Sheriff’s Deputies arrived on site and began  
19 their operations. Soon after, additional Sheriff’s Deputies, some wearing riot gear  
20 and holding batons, formed a line and forced most of the Stockton Encampment  
21 residents and community members gathered in support to the sidewalk.

22 17. The Sheriff’s Department deployed at least 15 Sheriff’s vehicles and  
23 one helicopter during this raid. The Sheriff’s vehicles lined the streets of Stockton  
24 Boulevard and created physical barriers that controlled access to the Stockton  
25 Encampment. The restricted access gave the Sheriff’s Department almost complete  
26 control of who was allowed in and out of the Encampment. As residents were  
27 pushed further away from their home and belongings, a helicopter circled above,  
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1 repeatedly blaring out warnings that the now displaced residents were unlawfully  
2 assembling and must disperse, or face arrest or physical force.

3 18. Once the Sheriff's Deputies blocked the entrance to the Stockton  
4 Encampment by forming a blockade and locking the gates, the Sheriffs drove back  
5 hoes, dump trucks, garbage trucks, and other vehicles onto the property. Sheriff's  
6 Department workers indiscriminately hauled and raked away items into the  
7 garbage trucks. The Sheriff's Department workers did not use care in handling the  
8 individual Plaintiffs' unabandoned property and treated almost all items as if they  
9 were presumptively trash.

10 19. While the Sheriffs allowed some residents to enter the property to  
11 remove items, many residents—including individual Plaintiffs—were not able to  
12 recover all of their property. No warrants were provided prior to the raid, nor any  
13 exception to the warrant requirement identified. Additionally, no notice was  
14 provided to inform residents where or if the Sheriff's Department would be  
15 collecting and itemizing their property.

16 20. The displaced residents had nowhere to go after the raid because the  
17 County did not have enough shelter beds. On the day in question, two of the largest  
18 shelter programs in Sacramento were not open for those seeking shelter. The  
19 County's Winter Sanctuary program is a seasonal shelter, and had already closed  
20 for the season. The Railroad Avenue Shelter, operated by the City of Sacramento,  
21 permanently closed its doors just before the raid. Further, Defendant Sacramento  
22 County's emergency shelters for individuals without children are by invitation only.

23 21. The County's Department of Human Assistance was noticeably absent  
24 during the raid.

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**PLAINTIFFS**

**Betty “Bubbles” Rios**

22. Plaintiff Betty “Bubbles” Rios is and has been a resident of the County of Sacramento at all relevant times.

23. Ms. Rios grew up in Rio Linda, a small town located in Sacramento County. She attended elementary, middle, and high school in the Rio Linda School District. From 1998 to 2010, Ms. Rios lived in the Hood Mobilehome Park previously on the Stockton Encampment lot with her family. When Defendant SHRA demolished the mobilehome park, she was promised relocation and a right to return once they build affordable housing on the site.

24. Through no fault of her own, Ms. Rios was made homeless upon Defendant SHRA’s demolition of the park. With nowhere safe to go and not enough income to afford monthly rent, Ms. Rios has lived at the Stockton Encampment for much of the past nine years. She periodically was forced off the property, but returned because this was her home and she had nowhere else to safely sleep and rest.

25. Ms. Rios resided at the Stockton Encampment because she cannot afford to replace the housing she lost when Defendant SHRA demolished her home and failed to develop a new one. She also could not access an emergency shelter bed. Prior to the raid, she tried calling shelters and service providers on multiple occasions, but the shelters were always full. Additionally, Ms. Rios has no income because she has reached the three-month limit for General Assistance, a cash aid program of last resort for indigent Sacramento residents who have no other means of support. She cannot pay for any type of shelter.

26. At the Stockton Encampment, Ms. Rios slept in a tented tarp. The tarp protected her from the weather while she slept and rested and kept her possessions safe. Ms. Rios had many possessions in the tarp, including clothes, medicine, a

1 breathing machine, and a bone stimulator for her arm. The tarp provided her with  
2 privacy from other members of the community. Ms. Rios does not have access to any  
3 other private space where she can store her possessions.

4 27. On the day of the raid, Deputy Sheriff Lee injured Ms. Rios. Ms. Rios  
5 was standing outside the gate that separated her from her home, possessions, and  
6 community. She was worried about what would happen to her property and the  
7 other residents that lived at the Stockton Encampment. She was not armed and  
8 was not a threat. Despite these circumstances, Deputy Sheriff Lee grabbed Ms.  
9 Rios' arm and exerted excessive force that led to injury. Ms. Rios arm, which was  
10 previously injured but had substantially healed, was re-broken. Emergency vehicles  
11 arrived and took her to the hospital for treatment.

12 28. When she returned from the hospital several hours later with her arm  
13 in a cast, the Sheriff's workers had already removed a good portion of her property  
14 and other property on site. Ms. Rios lost her breathing machine, bone stimulator,  
15 and medication in the chaos of the raid, in addition to her clothes and other  
16 personal items. Ms. Rios was not told how or if any of her property could be  
17 reclaimed.

18 29. In addition to illegally destroying her needed personal property,  
19 Defendants issued Ms. Rios a Notice of Trespass threatening prosecution for  
20 trespass on private property under the state Penal Code and Sacramento County  
21 Code 9.80.010. She did not know why she received the Notice of Trespass because  
22 she had already exited the encampment and at all relevant times had slept on  
23 publicly-owned land.

24 30. Based on the raid and the communications from the Sheriff's  
25 Department before, during and following the raid, Ms. Rios fears that Defendants  
26 will continue to use these heavy-handed practices to remove herself and other  
27 residents who are currently homeless from public sight, including but not limited to  
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1 threatening prosecution or making actual arrests for sleeping outside with her tent  
2 or blankets, failure to obey orders to move along, or trespass. Approximately a week  
3 after the Sheriff's Deputy broke her arm, the County offered Ms. Rios temporary  
4 shelter. She is nevertheless still at risk of homelessness in the near future. Ms. Rios  
5 fears that Defendants will prevent her from resting, sleeping or being in public  
6 space, and will seize and destroy more of her property without a warrant and  
7 adequate notice in the future.

8 **Lucille Mendez**

9 31. Plaintiff Lucille Mendez is and has been a resident of the County of  
10 Sacramento at all relevant times. Ms. Mendez was born in Sacramento.

11 32. Ms. Mendez has been homeless for the past 11 years, after her mother  
12 passed away. Ms. Mendez has slept in the Stockton Encampment on and off for the  
13 past five years. She has been there for the last seven months. Ms. Mendez does not  
14 have any income and cannot pay for refuge in housing or motels. Ms. Mendez  
15 attempted to get in touch with County navigators to improve her living situation  
16 last winter, but was told no one was available to help her. In March, she accepted  
17 motel vouchers and was under a roof for several days. Once the vouchers expired,  
18 she found herself back at the Stockton Encampment.

19 33. When Ms. Mendez received the Notice, she did not have access to any  
20 private space where she could store her possessions. She was forced to choose which  
21 of her possessions she could keep and physically carry, and which the County would  
22 potentially take indefinitely or destroy.

23 34. At the Stockton Encampment, Ms. Mendez slept under a tented tarp.  
24 The tarp protected her from the weather and kept her possessions safe. The tarp  
25 also provided her with privacy from other members of the community. Ms. Mendez  
26 had many personal items under her tarp: clothes, tools, a mattress, blankets, and  
27 chairs. It was her home.

1           35. Ms. Mendez cannot access an emergency shelter bed and involuntarily  
2 lives in public space at the only location where she can meet her basic human needs  
3 for shelter and community: the Stockton Encampment. She has tried calling, but  
4 she has been unable to find any shelter bed that allows her to bring a dog.

5           36. On the day of the raid, Ms. Mendez lost almost everything under her  
6 tarp. She no longer has her tools, clothes, mattress, blankets, or chairs. Ms. Mendez  
7 watched the Sheriff's Deputies throw out her items she did not abandon but was  
8 unable to carry out at the beginning of the raid without any regard to their  
9 apparent condition, utility, and value.

10           37. After the raid, Ms. Mendez slept in a donated tent outside the locked  
11 gates of the Stockton Encampment. Ms. Mendez lived much closer to Stockton  
12 Boulevard, a large thoroughfare, than when she was at the Stockton Encampment.  
13 She felt unsafe in such close proximity to Stockton Boulevard.

14           38. On or around May 9, 2019, the Sheriff's Department had another  
15 operation outside of the Stockton Encampment. The Sheriff's Department again  
16 ordered people to leave, without written notice. Ms. Mendez was given very little  
17 time to move and was threatened with arrest. The Sheriff's Deputies destroyed Ms.  
18 Mendez's donated tent and did not offer her shelter. Ms. Mendez does not know  
19 where else she can go and rest—the Sheriff's Department has forced her to move  
20 multiple times without offering any adequate alternative.

21           39. On May 16, 2019, Ms. Mendez was sleeping and resting around the  
22 corner from the encampment because she had nowhere else to be. Sheriff's Deputies  
23 issued her a Notice of Trespass that evening. On May 17, 2019, she was arrested  
24 and taken to jail for trespass.

25           40. Based on the raid and her arrest after the raid, Ms. Mendez fears that  
26 the Defendants will continue to use these heavy-handed practices to remove herself  
27 and other residents that are currently homeless from sight, including but not  
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1 limited to threatening prosecution or making additional arrests for sleeping outside  
2 with her tent or blankets, failure to obey orders to move along, and/or trespass. Ms.  
3 Mendez fears that Defendants will continue to prevent her from sleeping and  
4 resting, and will destroy her property without a warrant and adequate notice in the  
5 future.

6 **Palmer Overstreet**

7 41. Plaintiff Palmer Overstreet has been a resident of the County of  
8 Sacramento at all relevant times.

9 42. Mr. Overstreet has slept at the Stockton Encampment for over four  
10 years. Mr. Overstreet supports himself by fixing and building bikes for people in the  
11 community. He makes around \$200-\$300 per week at most, and cannot get General  
12 Assistance because he reached the 3-month time limit. He does not make enough  
13 money to pay for housing or shelter.

14 43. Mr. Overstreet did not receive any notice from the Sheriff that they  
15 would be closing down the Stockton Encampment, though he was aware other  
16 people received a document providing 72-hours' notice. Mr. Overstreet did not have  
17 a safe space that he could store his items prior to the noticed date.

18 44. Mr. Overstreet slept at the Stockton Encampment because he cannot  
19 find shelter elsewhere. Last month, he tried calling at least a dozen homeless  
20 services providers in the City and County of Sacramento to secure a bed. They were  
21 all full and had no beds available. Around one to two weeks before the Sheriff's raid,  
22 Mr. Overstreet again tried to call shelters to find a bed. He was again unsuccessful  
23 because there is a shortage of beds in the County.

24 45. On May 1, 2019, Mr. Overstreet was only able to get some of his  
25 belongings out of the Stockton Encampment during the raid. Everything else was  
26 destroyed or thrown away without his consent. The Sheriff's Deputies disposed of  
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1 his tent, tools, bike parts, cooking equipment, and other personal items. Mr.  
2 Overstreet no longer has the tools or parts that he uses to support himself.

3 46. The Sheriff's Department gave him a Notice of Trespass and took down  
4 his name while he was walking out of the Stockton Encampment. He understood  
5 this to be a citation for trespass, but he did not understand why he received it  
6 because he was already on his way out of the Stockton Encampment. Mr. Overstreet  
7 was not given any motel vouchers, offers for shelters, or other placement that would  
8 provide him a safe space to rest.

9 47. After the Stockton Encampment closed, Mr. Overstreet slept on the  
10 asphalt directly outside of the Stockton Encampment for several days. On May 9,  
11 2019, the Sheriff's Department told everyone, including Mr. Overstreet, that they  
12 had to leave and that they cannot camp, sleep, or rest outside of the Stockton  
13 Encampment. The Sheriff's Department threatened to arrest anyone who did not  
14 leave the area or go to a shelter. The Sheriff's Department did not offer shelter  
15 space to Mr. Overstreet during this second displacement. Mr. Overstreet has been  
16 forced to move several times, first from the Encampment, then the asphalt outside  
17 of the Encampment. Mr. Overstreet does not know where else he is able to go to  
18 sleep and rest.

19 48. Based on the raid and the Sheriff Department's threat to arrest him on  
20 May 9, 2019, Mr. Overstreet fears that the Defendants will continue to use these  
21 heavy-handed practices to remove himself and other residents who are currently  
22 homeless from sight, including but not limited to threatening prosecution or making  
23 actual arrests for sleeping outside with his tent or blankets, failure to obey orders to  
24 move along, and/or trespass. Mr. Overstreet fears that Defendants will continue to  
25 prevent him from camping, and will destroy his property without a warrant and  
26 adequate notice in the future.

**Sacramento Homeless Organizing Committee**

49. Sacramento Homeless Organizing Committee (“SHOC”) is a nonprofit organization incorporated under the laws of the State of California. SHOC was founded in 1987 by advocates, service providers and formerly homeless and low-income individuals to amplify the voice of homeless and low-income community members.

50. SHOC and its board members seek to address problems of homelessness through publishing a newspaper that educates the public on issues of poverty and homelessness that is distributed by those experiencing homelessness. SHOC also engages in policy advocacy, direct non-violent actions, and education to bridge the gap between the homeless community and others in our society.

51. In light of the urgency of the impending raid and dislocation of residents at the longstanding Stockton Encampment, several SHOC board members provided education, support and assistance to the residents during the days before and the day of the raid. SHOC, as an advocacy organization, also spoke with community partners in an effort to find a solution to sustain and improve living conditions at the Stockton Encampment.

52. The evening before the raid, SHOC board members were at the encampment to help organize community groups, residents, and other volunteers. On the day of the raid, SHOC board members assisted residents in understanding their rights. SHOC members were on site to observe and ensure that residents were not illegally arrested or forced to move. Because of the Sheriff’s dispersal order, SHOC members were unable to fully perform their tasks. Board members also physically helped some residents move their property out of the Stockton Encampment.

53. SHOC board members are familiar with Sacramento and available resources. The board members did not and do not know of any place unhoused

1 individuals can safely relocate without violating the County's rules on camping or  
2 placing property on public places.

3 54. Because of Defendants' actions, SHOC has been forced to divert  
4 resources to not only warn and educate the residents at the Stockton Encampment  
5 regarding their legal rights and protections, but also to go beyond SHOC's usual  
6 and customary activities to physically help residents move on the day of the raid,  
7 and provide physical and emotional support in the days following to assist residents  
8 manage the traumatic dislocation.

9 **DEFENDANTS**

10 55. Defendant County of Sacramento is a public entity, duly organized and  
11 existing under the laws of the State of California. The County has at all times  
12 relevant been responsible for the actions, policies, procedures, practices, and  
13 customs of the Sacramento County Sheriff's Department. On information and belief,  
14 the County directed the raid and eviction of individual Plaintiffs from the Stockton  
15 Encampment and directed Defendant SHRA to issue Notices of Trespass to  
16 individual Plaintiffs and other residents on May 1, 2019.

17 56. Defendant Nav Gill is the Sacramento County Executive. The County  
18 Executive is responsible for planning, organizing, directing, and coordinating  
19 County activities.

20 57. Defendant County of Sacramento, as the Successor Agency for the  
21 Redevelopment Agency of the County of Sacramento, owns one parcel within the  
22 Stockton Encampment (5700 Stockton Boulevard). On information and belief, the  
23 County, in this capacity, directed the eviction of individual Plaintiffs from the  
24 Stockton Encampment and directed Defendant SHRA to issue Notices of Trespass  
25 to individual Plaintiffs and other residents on May 1, 2019.

26 58. Defendant Sacramento County's Sheriff's Department is a department  
27 of Sacramento County. The Sheriff's Department enforces the actions, policies,  
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1 procedures, practices and customs that led to the raid and eviction of individual  
2 Plaintiffs from the Stockton Encampment.

3 59. Defendant Scott Jones is the Sheriff of Sacramento County and in that  
4 capacity is responsible for the operations of the Sheriff's Department.

5 60. Defendant Sacramento Housing and Redevelopment Agency is a joint-  
6 powers agency created by the City of Sacramento and the County of Sacramento.  
7 Defendant SHRA was designated with responsibility for one parcel within the  
8 Stockton Encampment (5716 Stockton Boulevard) by the City of Sacramento, as the  
9 Successor Agency to the Redevelopment Agency of the City. On information and  
10 belief, SHRA directed the eviction of individual Plaintiffs from the Stockton  
11 Encampment. SHRA issued Notices of Trespass to residents of the Stockton  
12 Encampment on behalf of SHRA and the County on May 1, 2019 during the raid.

13 61. Defendant La Shelle Dozier is the Executive Director of SHRA, and in  
14 that capacity is responsible for the scope of the enforcement action taken against  
15 individual Plaintiffs and other homeless persons who resided at the Stockton  
16 Encampment.

17 62. Defendant Deputy Lee is a Deputy of the Sacramento County Sheriff's  
18 Department and is responsible for the excessive force against Plaintiff Betty Rios  
19 that broke her arm.<sup>1</sup>

20 63. All of the above individual defendants are sued in their official  
21 capacities with the exception of Defendant Deputy Lee, who is sued in both his  
22 individual and official capacities.

23 64. Plaintiffs are informed and believe that the acts of Defendants  
24 described in this Complaint were undertaken to execute policies and practices of  
25 authorized policymakers of Defendant County of Sacramento. These policies and  
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27 <sup>1</sup> At this time, Plaintiffs have not yet been able to obtain Deputy Lee's full name.  
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1 practices were implemented by the remaining Defendants, and each of them, acting  
2 as the agent, servant, employee and/or in concert, and/or in conspiracy with each of  
3 said other Defendants. Each of the Defendants caused, and is liable for, the  
4 unconstitutional and unlawful conduct and resulting injuries by personally  
5 participating in said conduct or acting jointly by authorizing, acquiescing or setting  
6 in motion policies, plans and actions that led to the unlawful conduct.

7 **IV. LEGAL BACKGROUND**

8 65. At all relevant times, Defendants and their agents acted under color of  
9 state law and within the scope of their employment.

10 66. Defendants' actions and conduct have resulted and will result in  
11 irreparable injury to Plaintiffs. Plaintiffs have no plain, adequate or complete  
12 remedy at law to address the wrongs described herein. Defendants have made it  
13 clear by their previous and ongoing actions that they intend to continue the  
14 unlawful conduct described above. Defendant County has a policy and practice of (1)  
15 confiscating and destroying the personal property of individual Plaintiffs and  
16 similarly situated homeless individuals without legal basis; and (2) criminalizing  
17 individual Plaintiffs' ability to rest and perform other unavoidable acts of survival  
18 in public places. The remaining Defendants have and will continue to participate in  
19 implementing this policy and practice unless and until restrained by an injunctive  
20 decree of this Court.

21 67. The acts of Defendants as alleged above constituted violations of  
22 individual Plaintiffs' established constitutional rights. Defendants knew or should  
23 have known that their conduct in intentionally seizing and immediately destroying  
24 all of individual Plaintiffs' personal property was inconsistent with individual  
25 Plaintiffs' constitutional rights, and they knew or should have known that issuing a  
26 Notice threatening criminal prosecution for "camping or lodging" violates the  
27 Eighth Amendment.

1           68.     An actual controversy exists between Plaintiffs and Defendants  
2 because Defendants have engaged in the unlawful and unconstitutional conduct as  
3 alleged and intend to continue this unlawful conduct as an ongoing practice and  
4 policy of the County of Sacramento. Plaintiffs seek a declaration that the threat of  
5 prosecution and imposition of criminal penalties for involuntary conduct associated  
6 with being homeless and the seizure and destruction of personal property without  
7 proper notices, warrants, or hearing rights is unlawful and unconstitutional.

8           69.     As a direct and proximate result of the Defendants' unconstitutional  
9 and unlawful policies, practices and conduct, individual Plaintiffs have suffered,  
10 and will continue to suffer damages, including but not limited to: (1) having no  
11 place to sleep, rest, or lie without harassment and threat of criminal punishment by  
12 Defendants; and (2) the deprivation and destruction of property, including clothing,  
13 bedding, medication, personal documents and other personal possessions, leaving  
14 them without their essential personal belongings necessary for shelter, health, well-  
15 being and personal dignity.

16                               **V.   CAUSES OF ACTION**

17                               **FIRST CAUSE OF ACTION**

18       **Denial of Constitutional Right Against Unreasonable Search and Seizure**  
19       **(Fourth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

20           70.     Plaintiffs incorporate each and every allegation of the preceding  
21 paragraphs as if fully set forth herein.

22           71.     Defendants' above described policies, practices, and conduct violate the  
23 individual Plaintiffs' right to be free from unreasonable searches and seizures under  
24 the Fourth Amendment to the United States Constitution and 42 U.S.C. § 1983 by  
25 confiscating and then destroying individual Plaintiffs' property without a warrant.

26           72.     These unlawful actions were done with intent to deprive the individual  
27 Plaintiffs of their right to be secure in their property.

73. As a direct and proximate consequence of these unlawful acts, individual Plaintiffs have suffered and continue to suffer harm from the loss of their personal property and are entitled to compensatory damages.

## **SECOND CAUSE OF ACTION**

### **Denial of Constitutional Right to Due Process of Law**

#### **(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

74. Plaintiffs incorporate each and every allegation of the preceding paragraphs as if fully set forth herein.

75. Defendants' above described policies, practices, and conduct violate the individual Plaintiffs' right to due process of law under the Fourteenth Amendment of the U.S. Constitution and 42 U.S.C. § 1983.

76. Defendants had a duty to provide the individual Plaintiffs with notice that their property was at risk of being seized and/or destroyed and an opportunity to be heard. Defendants failed to do so. Further, they did not preserve the individual Plaintiffs' property or provide a means of reclaiming it, thereby stripping individual Plaintiffs of any meaningful opportunity to contest the deprivation of their property.

77. As a direct and proximate consequence of the acts of Defendants' agents and employees, individual Plaintiffs have suffered and continue to suffer loss of their personal property and are entitled to compensatory damages for their property and other injury to their person.

## **THIRD CAUSE OF ACTION**

### **Violation of Civil Rights, Cruel and Unusual Punishment**

#### **(Eighth Amendment of the U.S. Constitution; 42 U.S.C. § 1983)**

78. Plaintiffs incorporate each and every allegation of the preceding paragraphs as if fully set forth herein.

1           79. The County's failure to provide adequate shelter space often forces the  
2 individual Plaintiffs and other homeless individuals to sleep in public places in  
3 Sacramento County.

4           80. Individual Plaintiffs are homeless and slept and rested at the Stockton  
5 Encampment with other similarly situated persons. The Stockton Encampment, at  
6 the time of closing, had dumpster services, portable restrooms, and a group of  
7 residents that created a community to support each other including elected leaders.  
8 The Stockton Encampment is a vacant, unused lot, with no imminent plans for  
9 development.

10           81. Although Defendants knew that individual Plaintiffs are homeless and  
11 that the County does not and did not at all relevant times have the available  
12 resources to provide individual Plaintiffs shelter beds, Defendants threatened  
13 individual Plaintiffs with criminal punishment for resting and sleeping at the  
14 Stockton Encampment. Defendants are punishing individual Plaintiffs and other  
15 similarly situated homeless people based on their status as homeless persons and  
16 their need to sit, lie, or sleep in public spaces.

17           82. Defendants' actions that penalize individual Plaintiffs for their  
18 homeless status is cruel and unusual punishment in violation of individual  
19 Plaintiffs' established rights under the Eighth Amendment of the U.S. Constitution  
20 as incorporated in, and applied to the states through, the Fourteenth Amendment.

21                           **FOURTH CAUSE OF ACTION**

22                                   **Excessive Force**

23                                   **(Fourth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

24   **Plaintiff Betty Rios against Defendant Lee.**

25           83. Plaintiffs incorporate each and every allegation of the preceding  
26 paragraphs as if fully set forth herein.

1           84. Plaintiff Betty Rios has a clearly established Constitutional right  
2 under the Fourth Amendment to bodily integrity and to be free from excessive force  
3 by law enforcement. Defendant Lee's actions and use of force were objectively  
4 unreasonable in light of the facts and circumstances confronting them and violated  
5 Plaintiff Rios' Fourth Amendment right.

6           85. As a result, Plaintiff Rios suffered physical pain and suffering.  
7 Defendant Lee's use of force was excessive because he was not in an immediate  
8 defense of life situation. There were alternatives for Defendant Lee other than the  
9 use of excessive force.

10          86. Defendant Lee's use of force was excessive and unreasonable under the  
11 circumstances, especially since Plaintiff Rios was unarmed, was leaving the  
12 premises, and was complying with their orders.

13          87. Defendant Lee's conduct was willful, wanton, and done with reckless  
14 disregard for the rights and safety of Plaintiff Rios and therefore warrants the  
15 imposition of damages.

16          88. As a direct and proximate result of the actions of Defendant Lee,  
17 Plaintiff Rios has suffered injuries and is at risk of future injuries and harm.

18                                   **FIFTH CAUSE OF ACTION**

19                                   **Declaratory Relief**

20                                   **(28 U.S.C. §§ 2201-2202)**

21          89. Plaintiffs incorporate each and every allegation of the preceding  
22 paragraphs as if fully set forth herein.

23          90. Under 28 U.S.C. Section 2201, this Court has authority to issue a  
24 judgment declaring the rights of the parties and issue an injunction to enforce the  
25 Court's declaration.

26          91. An actual controversy exists between Plaintiffs and Defendants in that  
27 Defendants have engaged in the unlawful and unconstitutional conduct as alleged  
28

1 and intend to continue this unlawful conduct as an ongoing practice and policy of  
2 the County of Sacramento, whereas Plaintiffs claim that these practices are  
3 unlawful and unconstitutional and therefore seek a declaration of rights with  
4 respect to this controversy.

5 **VI. REQUEST FOR RELIEF**

6 WHEREFORE, Plaintiffs request judgment against Defendants as follows:

7 A. For a permanent injunction, enjoining and restraining Defendants from:

- 8 a. Seizing and destroying the personal property of homeless  
9 individuals without providing proper notices, warrants, and hearing  
10 rights.  
11 b. Enforcing the County's stated policy that "every person who  
12 camps/lodges or stores property on public land without the  
13 permission of the owner is committing a misdemeanor violation"  
14 against homeless individuals who cannot obtain shelter and  
15 sleep/rest/lay/camp on vacant undeveloped public lots.  
16 c. Enforcing any other statutes, ordinances, practices or policies that  
17 criminally punish or threaten to punish  
18 sleeping/resting/laying/camping on public property by those who are  
19 involuntarily in public space.

20 B. For a declaration that the enjoined policies, practices, and conduct violate  
21 Plaintiffs' Constitutional rights as follows:

- 22 a. To be free from the seizure and destruction of personal property  
23 without proper notices, warrants, or hearing rights in violation of  
24 the Fourth and Fourteenth amendment to the U.S. Constitution.  
25 b. To be free from cruel and unusual punishment under the 8<sup>th</sup>  
26 amendment to the U.S. Constitution for  
27 sleeping/resting/laying/camping on vacant public lots when  
28

1 individuals cannot otherwise obtain shelter.

2 C. For the return of Plaintiffs' property;

3 D. For all Plaintiffs, compensatory damages subject to proof;

4 E. For Plaintiff Rios, special damages including medical expenses subject to  
5 proof;

6 F. For an award of attorney's fees and costs pursuant to 42 U.S.C. § 1988 and  
7 any other applicable provisions of law; and

8 G. For such other and further relief as the Court may deem proper.

9  
10 DATED: May 22, 2019

11 By: /s/ Laurance H Lee  
12 Laurance Lee  
13 Karen Kontz  
14 LEGAL SERVICES OF  
15 NORTHERN CALIFORNIA  
16 Attorneys for Plaintiffs  
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